

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST
for Adoption of Rules Review & Readoption of Chapter 19

AGENDA REQUESTED: May 31, 2023

DATE OF REQUEST: May 12, 2023

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Gwen Ricco, Agenda Coordinator, (512) 239-2678

CAPTION: Docket No. 2022-1598-MIS. Consideration for the adoption of the rules review and readoption of 30 TAC Chapter 19, Electronic Reporting; Electronic Transmission of Information by Commission. This review is in accordance with Texas Government Code, Section 2001.039, which requires state agencies to review and consider for readoption each of their rules every four years. The proposal was published in the January 20, 2023, issue of the *Texas Register* (Vol. 48 TexReg 229). (Brad Patterson, Aubrey Pawelka) (Non-Rule Project No. 2023-016-019-AD)

Mary Smith

Deputy Director

Laurie Gharis

Division Director

Gwen Ricco

Agenda Coordinator

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date:** May 12, 2023

Thru: Laurie Gharis, Chief Clerk
Erin Chancellor, Interim-Executive Director

From: Mary Smith, General Counsel

Docket No.: 2022-1598-MIS

Subject: Commission Approval for Adoption of Rules Review and Readoption of Rules
Chapter 19, Electronic Reporting; Electronic Transmission of Information by Commission
Rules Review of 30 TAC Chapter 19
Non-Rule Project No. 2023-016-019-AD

What the adopted action would do:

This action will approve the rules review of Chapter 19, and readopt the chapter.

This action constitutes a determination by the Texas Commission on Environmental Quality, after opportunity for public review and comment, that the initial reasons for adopting the rules of this chapter continue to exist.

Applicable law:

The review of the rules is authorized under the requirements of Texas Government Code, §2001.039; and the General Appropriations Act, Article IX, §9-10.13, 76th Texas Legislature, 1999, which require state agencies to review and consider for readoption each of their rules every four years.

Reason rules are needed:

Executive director's staff conducted a review of the rules in Chapter 19 and determined that the reasons for adopting these rules continue to exist. Rules in Chapter 19 implement the United States Environmental Protection Agency's Cross Media Electronic Reporting Rule (CROMERR), 40 Code of Federal Regulations, Part 3. CROMERR established electronic reporting as an acceptable regulatory alternative and established requirements for states who choose to accept electronic reports to assure that electronic documents are as legally enforceable as their paper counterparts. Chapter 19 also implements Texas Water Code, §5.128, requiring the commission to encourage the use of electronic reporting for submission of reports required by the commission in addition to requiring the commission to utilize electronic transmission of information by the commission; and authorizing the commission to adjust fees to encourage electronic reporting and use of the commission's electronic document receiving system.

Rules found to be obsolete:

None.

Public comment:

A public hearing was not offered for this review. The comment period for the rules review closed on February 21, 2023. No comments were received.

Commissioners

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Affected agency program(s):

As these rules involve the receipt of all electronic submissions, as well as electronic transmission of information such as notices, orders, and agency decisions, all agency program and administrative areas bear some responsibility for implementing these rules.

Agency contacts:

Brad Patterson, Project Manager, Office of the Chief Clerk, (512) 239-1201

Aubrey Pawelka, Staff Attorney, Environmental Law Division, (512) 239-0622

Gwen Ricco, Texas Register/Agenda Coordinator, General Law Division, (512) 239-2678

Attachments:

Texas Register publication of Proposed Rule Review Notice

cc: Chief Clerk, 7 copies

REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

Proposed Rule Reviews

Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 9, Training.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re Adoption, re Adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 9 continue to exist.

Comments regarding suggested changes to the rules in Chapter 9 may be submitted, but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 9. Written comments may be submitted to Gwen Ricco, Texas Register/Agenda Coordinator, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808.

Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-011-009-AS. Comments must be received by February 21, 2023. For further information, please contact Robert Icenogle, Human Resources and Staff Services Division, at (512) 239-0131.

TRD-202300125

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 15, Fleet Vehicle Management.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re Adoption, re Adoption with amendments, or repeal every four years. During this review, the com-

mission will assess whether the reasons for initially adopting the rules in Chapter 15 continue to exist.

Comments regarding suggested changes to the rules in Chapter 15 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 15. Written comments may be submitted to Gwen Ricco, Texas Register/Agenda Coordinator, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-019-015-AS. Comments must be received by February 21, 2023. For further information, please contact Robert Icenogle, Human Resources and Staff Services Division, at (512) 239-0131.

TRD-202300129

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 19, Electronic Transmission of Information by Commission.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for re Adoption, re Adoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 19 continue to exist.

Comments regarding suggested changes to the rules in Chapter 19 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 19. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087,

or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-016-019-AD. Comments must be received by February 21, 2023. For further information, please contact Brad Patterson, Office of the Chief Clerk, at (512) 239-1201.

TRD-202300126

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 25 continue to exist.

Comments regarding suggested changes to the rules in Chapter 25 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 25. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-017-025-CE. Comments must be received by February 21, 2023. For further information, please contact D. Jody Koehler, Monitoring Division, at (512) 239-1990.

TRD-202300127

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) files this Notice of Intention to Review 30 TAC Chapter 30, Occupational Licenses and Registrations.

This proposal is *limited* to the review in accordance with the requirements of Texas Government Code, §2001.039, which requires a state agency to review and consider its rules for readoption, readoption with amendments, or repeal every four years. During this review, the commission will assess whether the reasons for initially adopting the rules in Chapter 30 continue to exist.

Comments regarding suggested changes to the rules in Chapter 30 may be submitted but will not be considered for rule amendments as part of this review. Any such comments may be considered in a future rule-making action by the commission.

Submittal of Comments

The commission invites public comment on this preliminary review of the rules in Chapter 30. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <https://tceq.commentinput.com/>. File size restrictions may apply to comments being submitted via the TCEQ Public Comment system. All comments should reference Non-Rule Project Number 2023-018-030-WS. Comments must be received by February 21, 2023. For further information, please contact Rebecca Moore, Project Manager, Occupational Licensing and Registration Division, at (512) 239-2463.

TRD-202300128

Guy Henry

Acting Deputy Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: January 11, 2023



The Texas Commission on Environmental Quality (commission) has completed its Rule Review of 30 TAC Chapter 19, Electronic Reporting; Electronic Transmission of Information by Commission, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. The commission published its Notice of Intent to Review these rules in the January 20, 2023, issue of the *Texas Register* (48 TexReg 229).

The review assessed whether the initial reasons for adopting the rules continue to exist and the commission has determined that those reasons exist. The rules in Chapter 19 are required because rules in Chapter 19 implement the United States Environmental Protection Agency's Cross Media Electronic Reporting Rule (CROMERR), 40 Code of Federal Regulations, Part 3. CROMERR established electronic reporting as an acceptable regulatory alternative and established requirements for states who choose to accept electronic reports to assure that electronic documents are as legally enforceable as their paper counterparts. Chapter 19 also implements Texas Water Code, §5.128, requiring the commission to encourage the use of electronic reporting for submission of reports required by the commission in addition to requiring the commission to utilize electronic transmission of information by the commission; and authorizing the commission to adjust fees to encourage electronic reporting and use of the commission's electronic document receiving system.

Public Comment

The public comment period closed on February 21, 2023. The commission did not receive comments on the rules review of this chapter.

As a result of the review the commission finds that the reasons for adopting the rules in 30 TAC Chapter 19 continue to exist and readopts these sections in accordance with the requirements of Texas Government Code, §2001.039.

Texas Commission on Environmental Quality



ORDER ADOPTING RULES REVIEW AND READOPTING RULES

Docket No. 2022-1598-MIS
Non-Rule Project No. 2023-016-019-AD

On May 31, 2023, the Texas Commission on Environmental Quality (Commission) approved the rules review of 30 TAC Chapter 19, Electronic Reporting; Electronic Transmission of Information by Commission in accordance with the requirements of Texas Government Code, § 2001.039, which requires a state agency to review and consider for re-adoption each of its rules every four years. The proposed Notice of Intention to Review was published in the January 20, 2023, issue of the *Texas Register* (48 TexReg 229).

IT IS THEREFORE ORDERED BY THE COMMISSION, that the rules review of 30 TAC Chapter 19 is hereby adopted. The rules and the preamble to the rules approved by the Commission are incorporated by reference in this Order as if set forth at length verbatim in this Order.

IF ANY PORTION OF THIS ORDER is for any reason held to be invalid by a court of competent jurisdiction, the invalidity of any portion shall not affect the validity of the remaining portions.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Jon Niermann, Chairman

Date Signed